

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

TERRI FRANCES MURPHY,

Plaintiff,

3:13-CV-0960
(GTS/ATB)

v.

COMMISSIONER OF SOCIAL SECURITY,

Defendant.

APPEARANCES:

OF COUNSEL:

OLINSKY LAW GROUP
Counsel for Plaintiff
300 South State Street, Suite 420
Syracuse, New York 13202

HOWARD D. OLINSKY, ESQ.

SOCIAL SECURITY ADMINISTRATION
OFFICE OF REG'L GEN. COUNSEL-REGION II
Counsel for Defendant
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New York, NY 10278

FERGUS J. KAISER, ESQ.
SUSAN J. REISS, ESQ.

GLENN T. SUDDABY, United States District Judge

DECISION and ORDER

The above matter comes to this Court following a Report-Recommendation by United States Magistrate Judge Andrew T. Baxter, filed on October 23, 2014, recommending that (1) Defendant's motion for judgment on the pleadings be denied, (2) Plaintiff's motion for judgment on the pleadings be granted, (3) Defendant's decision denying disability benefits be reversed, and (4) the case be remanded to Defendant for further proceedings pursuant to sentence four of 42 U.S.C. § 405(g). (Dkt. No. 14.) Objections to the Report-Recommendation have not been filed and the time in which to do so has expired.

When no objection is made to a report-recommendation, the Court subjects that report-recommendation to only a clear error review. Fed. R. Civ. P. 72(b), Advisory Committee Notes: 1983 Addition. When performing such a “clear error” review, “the court need only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.” *Id.*: *see also Batista v. Walker*, 94-CV-2826, 1995 WL 453299, at *1 (S.D.N.Y. July 31, 1995) (Sotomayor, J.) (“I am permitted to adopt those sections of [a magistrate judge’s] report to which no specific objection is made, so long as those sections are not facially erroneous.”) (internal quotation marks omitted).

Here, based upon a careful review of this matter, the Court can find no clear error with Magistrate Judge Baxter’s Report-Recommendation. (Dkt. No. 5.) Magistrate Judge Baxter employed the proper standards, accurately recited the facts, and reasonably applied the law to those facts. (*Id.*) As a result, the Report-Recommendation is accepted and adopted in its entirety for the reasons stated therein; and the case is remanded to Defendant for further proceedings pursuant to sentence four of 42 U.S.C. § 405(g).

ACCORDINGLY, it is

ORDERED that Magistrate Judge Baxter’s Report-Recommendation (Dkt. No. 18) is **ACCEPTED** and **ADOPTED** in its entirety; and it is further

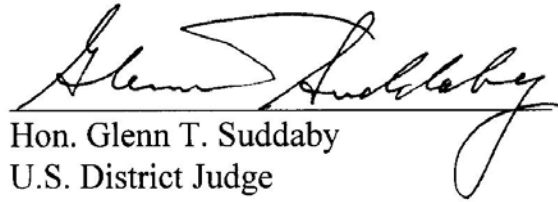
ORDERED that Defendant’s motion for judgment on the pleadings (Dkt. No. 17) is **DENIED**; and it is further

ORDERED that Plaintiff’s motion for judgment on the pleadings (Dkt. No. 13) is **GRANTED**; and it is further

ORDERED that Defendant’s decision denying disability benefits is **REVERSED**; and it is further

ORDERED that this matter is **REMANDED** to Defendant for further proceedings pursuant to sentence four of 42 U.S.C. § 405(g).

Dated: January 5, 2015
Syracuse, New York



Hon. Glenn T. Suddaby
U.S. District Judge